

EXHIBIT 4

DECLARATION OF CANDACE KECK

I, Candace Keck, hereby declare as follows:

1. I have personal knowledge of the facts set forth in this Declaration and if called to testify, could and would competently and truthfully testify about these facts.

2. I am a Clinical Associate Professor for Arizona State University Edson College of Nursing and Health Innovation (“Edson”). I also serve as the Course Coordinator for several clinical courses.

3. During the Summer 2021 semester, I served as the Course Coordinator for Plaintiff Sara Do’s NUR 478 clinical course.

4. In the Summer 2021, Sara Do was enrolled in clinical course NUR 478: Complex Care. As part of this course, Sara Do was required to complete six clinical shifts.

5. During Summer 2021, Sara Do missed an exam for her NUR 546 course, a Complex Care lecture course, for which I was the instructor. She emailed me about the exam and initially stated that she would miss this exam because she lived 40 miles away from campus and did not have anyone to drive her there, and did not have anyone to watch her 4 kids. A true and correct copy of my email correspondence with Sara Do regarding this missed exam is attached as **Exhibit A** (ABOR000493-ABOR000495). Sara Do’s initial email regarding the exam appears in Ex. A at ABOR000494-AOBR000495.

6. Sara Do asked if she could take the exam remotely, but I informed her that she could not. (*Id.* at ABOR000494.) Edson was no longer allowing students to take exams remotely.

7. Although I could not allow Sara Do to take the exam from home, in an effort to work with her, I agreed to allow her to complete a make-up exam at a later date and time, (*id.* at ABOR000494), at the ASU Polytechnic campus, as opposed to the downtown Phoenix campus.

8. Because of the time that elapsed between the initial exam date and the time Sara Do took the exam, I assigned Sara Do an alternate version of the test. The use of alternate exam formats is an anti-cheating measure that faculty often utilize when students make up a test outside of the initial testing time.

9. I assigned Sara Do the alternate test format to ensure the integrity of the exam. Neither Sara Do's heart condition nor her prior requests for accommodation from ASU played a role play a role in my decision to assign the alternate test format.

10. Throughout the Summer 2021 semester, Sara Do either missed or left early from several of her scheduled NUR 478 clinical shifts.

11. Initially, when Sara Do missed all or part of one of her clinical shifts for NUR 478, I assigned her written assignments to make up the missed clinical time. It was my understanding that I could assign written assignments in lieu of requiring make-up in-person clinical time because Edson had received a waiver from the Arizona Board of Nursing ("AZBN") allowing alternate methods for clinical instruction due to the COVID-19 pandemic.

12. In July 2021, Dr. Salina Bednarek, the Director of Prelicensure Nursing Programs for Edson at the time, informed the Edson faculty members involved with teaching prelicensure nursing students, including myself, that Edson would no longer

allow students to make up missed clinical time with written assignments. Instead, students missing clinical time due to illness or otherwise would need to make up that missed clinical time with additional in-person clinical hours. I understood from Dr. Bednarek that this decision had been made following discussions with representatives from the AZBN and believed this was an AZBN requirement.

13. On July 9 and 10, 2021, Sara Do missed two of her scheduled clinical shifts for NUR 478, citing issues relating to her arrhythmia.

14. When Dr. Bednarek informed me of the decision to no longer accept written work in lieu of clinical hours, I did not understand that she meant this decision would be implemented immediately. As a result, I provided Sara Do with two written assignments that she could complete to make up her missed clinical time.

15. At the time I assigned the written assignments to Sara Do, I did not understand that Edson would not accept the assignments, I believed they would be accepted by Edson to make up for Do's missed clinical hours.

16. When I emailed Sara Do on July 11, 2021 to let her know that I had assigned written make-up assignments, I also let her know that going forward, written clinical make-up assignments would not be accepted. A true and correct copy of my July 11, 2021 email to Sara Do is included in the email chain attached as **Exhibit B** (ABOR000521-ABOR000522) at ABOR000522.

17. I then learned from Dr. Bednarek that the assignments would not be accepted, based on the decision she had previously conveyed to me. Dr. Bednarek instructed me to inform Sara Do that the written make-up assignments would not be accepted in lieu of clinical hours and that Sara Do would have to perform in-person clinical shifts.

18. I sent a message to all of my students informing them of the change in how missed clinical shifts would be handled going forward.

19. In response to my message, Sara Do emailed me on July 14, 2021, asking if the statement in my message would apply going forward such that the written assignments I had assigned to her on July 11 would still count. (*See* Ex. A at ABOR000522.) I let Sara know that the change regarding missed clinical time became effective the prior weekend and that any student who missed clinical time the week before would need to attend an alternative clinical site. (*Id.* at ABOR000521.)

20. At or around the same time I provided the written make-up assignments to Sara Do, I also assigned a written make-up assignment to another student who also missed clinical hours. Like Sara Do, that student was not permitted to submit the written assignments in lieu of clinical hours and was required to complete an in-person clinical shift to make up missed clinical time. That student was not registered with the SAILS office as having a disability.

21. In the Summer 2021, in addition to my role within Edson, I also worked as a Registered Nurse in the HonorHealth Critical Care Educator-Nursing Education Department (“HonorHealth”) on days when I was not teaching.

22. In or around July 2021, Dr. Salina Bednarek asked if I could precept a student during one of my clinical shifts for HonorHealth so the student could make up missed clinical hours. I agreed to do so.

23. I understand that Dr. Bednarek also secured make-up clinical shifts for Sara Do at Valleywise Hospital. I did not play a role in that process.

24. On July 28, 2021, I participated in a virtual meeting with Sara Do, Dr. Bednarek, and Dr. Margaret Morris in which we conveyed to Sara Do that she would receive a failing grade for NUR 478 following her first clinical shift at Valleywise Hospital. I understand that Sara Do made a video recording of this virtual meeting on her cell phone and has produced that video in this case.

25. During the July 28, 2021 call, I told Sara Do that when the Arizona Board of Nursing (“AZBN”) reviewed our records, they would view her conduct on July 24, 2021 as patient abandonment. I said this both because I believe that Sara Do’s conduct would be viewed as patient abandonment and because I believed it was possible that the AZBN could review our student files, including performance evaluations. However, I acknowledge that during my tenure at Edson, I am unaware of the AZBN doing so.

26. I also served as the Course Coordinator for Sara Do’s clinical courses during the Spring and Summer 2023 semesters.

27. I was notified by the SAILS office that Sara Do had approved accommodations in both the Spring and Summer 2023 semesters.

28. I was not involved in the interactive process, or in making any determinations about Sara Do's requests for accommodations at any time during her enrollment in the MEPN program.

I declare under penalty of perjury that the foregoing is true and correct.

DATE: 6-26-2024.

Candace Keck MSN-Ed RN
Candace Keck, MSN-Ed

EXHIBIT A

From: Sara Do <sabedro@asu.edu> on behalf of Sara Do <sabedro@asu.edu>
To: Candace Keck; Katelin Keown
Sent: 6/10/2021 6:37:24 PM
Subject: Re: Tomorrow's Test

Professor Keck and Professor Keown,

I'm not going to be able to make it tomorrow to simulation or to take the test. As you graciously offered, I will do my best to take the test by the 17th at a testing center. I live by the ASU Poly Campus where I think they have one.

My cardiologist changed my medication from metoprolol to a combo with flecainide acetate because metoprolol alone isn't working on me due to the severity of my arrhythmia.

I'm on a 30-day cardiac monitor right now and the doctor is concerned due to the percentage of abnormalities he is seeing.

I'm doing my best to keep my head above water right now, but I'm nearly incapacitated when my arrhythmia kicks in and I can't get on top of it. It lasts for days with no reprieve, then will suddenly be gone for a couple of days before coming back with a vengeance. I stand up and nearly pass out, so I pretty much stay in bed when it gets like this.

At this point, I'm considering a leave of absence from the program, so please know I'm extremely grateful for your willingness to talk with me about this and remain as flexible as you are able to do within your allowable parameters. It isn't ideal to take a leave of absence, but I know there are attendance expectations as well, so I'm trying to safely do what I can.

Ideally I need an ablation as well as valve surgery to fix leaky mitral and tricuspid valves as seen in my echo, but undoubtedly that will require time off, so that's a last resort.

I have a cardiac MRI scheduled later this month and I have a team of electrophysiology cardiologists working on my case trying to figure it out. Since it all began immediately after receiving my first Pfizer Covid vaccine, they're trying to piece it all together and not act hastily (ablation and surgery before trying different medications first) in case it ends up resolving on its own as fast as it began. Unfortunately it's been almost 6 months and is progressively getting worse.

Anyway, for tomorrow, should I log in to participate from a zoom call during simulation or do you have another idea?

Thank you,
Sara Do

On Thu, Jun 10, 2021, 2:38 PM Candace Keck <Candace.Keck@asu.edu> wrote:
I'm sorry to hear this. Do you think you will be able to take it tomorrow?

From: Sara Do <sabedro@asu.edu>
Sent: Thursday, June 10, 2021 2:32 PM
To: Candace Keck <Candace.Keck@asu.edu>
Subject: Re: Tomorrow's Test

Professor Keck,

No I'll have to do what you suggested and schedule it for another time. I apologize for not responding earlier. I'm in arrhythmia pretty bad and my medication isn't working. I'm not feeling well at all.

Thank you,
Sara Do

On Thu, Jun 10, 2021, 2:29 PM Candace Keck <Candace.Keck@asu.edu> wrote:
Sara,
Are you coming to class to take test tonight?
Professor Keck

From: Candace Keck <Candace.Keck@asu.edu>
Sent: Wednesday, June 9, 2021 6:58 PM
To: Sara Do <sabedro@asu.edu>
Subject: Re: Tomorrow's Test

Sara,
You will not be able to take the test Remotely. You will need to make arrangements with the DRC to test before class on Thursday 6/17/21. Please let me know the date and time as soon as you can.
Professor Keck

From: Sara Do <sabedro@asu.edu>
Sent: Wednesday, June 9, 2021 6:07 PM
To: Candace Keck <Candace.Keck@asu.edu>
Subject: Re: Tomorrow's Test

Thank you I appreciate it!
Sara

On Wed, Jun 9, 2021, 9:38 AM Candace Keck <Candace.Keck@asu.edu> wrote:
Sara,
Sorry to hear about this. I will contact Leadership and let you know the response.
Professor Keck

From: Sara Do <sabedro@asu.edu>
Sent: Wednesday, June 9, 2021 9:28 AM
To: Candace Keck <Candace.Keck@asu.edu>
Subject: Tomorrow's Test

Professor Keck,

I am hoping you are able to offer me some assistance because I'm in a bind right now. To give you some background:

Immediately after receiving my first and only Covid vaccine, I went into atrial fibrillation. I was transferred to the hospital and since then, I have suffered from acute, intermittent arrhythmia where I will go from normal sinus rhythm to bigeminy within minutes. It has gotten so severe that it has resulted in my driving privileges being suspended from my electrophysiology cardiologist until we can get it resolved one way or another through surgery, ablation or medication titration to find the right dose of the right medication that works sufficiently and doesn't leave me feeling mentally detached, loopy and falling asleep.

My mom just called to inform me that she and my dad spent Sunday with my cousin and her daughter (who came into town for the weekend and got together with 30+ family members) and subsequently, tested positive for Covid the following day. My mom and dad are in self-quarantine and unable to watch my 4 kids (mom) and drive me to school (dad) for the test. The rest of my family who I might have been able to ask to drive me were also at the bbq to see my cousin and her daughter, so they were all exposed as well. Thankfully I didn't go because I'm paranoid about group events for this very reason!

I live 40 miles away from the school, so while an Uber would be really expensive round trip, I still don't have

anyone to watch my 4 kids. I'm presuming I cannot bring them with me (understandably so) and am wondering if I can do the test remotely using a proctor the way we have done all of our other tests. Otherwise, if this is not a possibility, do you have any other suggestions? I am still trying to figure out options, but wanted to touch base with you right now in case you can either let me take the test remotely or have suggestions I had not thought about already.

I do have the letter from my electrophysiology cardiologist's office instructing me not to drive, so if you need to see it I am happy to send it to you. I also have accommodations through the ASU disability department for my cardiac issues so I can get whatever information you need from them as well to substantiate this known cardiac issue I have been struggling with for quite some time.

Thank you for your feedback and any suggestions you might have.

Take care,
Sara Do

EXHIBIT B

From: Candace Keck </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cbe3ca01314046a4af5684a844034e40-cckeck_3bdd>
To: Salina Bednarek
Sent: 7/15/2021 5:34:19 AM
Subject: Fw: Clinical Make-Up Assignments

Here are all the emails together to include last nights.

From: Candace Keck <Candace.Keck@asu.edu>
Sent: Wednesday, July 14, 2021 10:40 PM
To: Sara Do <sabedro@asu.edu>
Subject: Re: Clinical Make-Up Assignments

That is a possibility. I will be speaking with Leadership tomorrow.
Professor Keck

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From: Sara Do <sabedro@asu.edu>
Sent: Wednesday, July 14, 2021 10:36:27 PM
To: Candace Keck <Candace.Keck@asu.edu>
Subject: Re: Clinical Make-Up Assignments

I hope I haven't done all of this work you assigned me 3 days ago for nothing after being told it was acceptable for my clinical replacement assignments for the missed shifts.

On Wed, Jul 14, 2021 at 10:34 PM Candace Keck <Candace.Keck@asu.edu> wrote:
No, not till I speak with Leadership tomorrow.
Professor Keck

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From: Sara Do <sabedro@asu.edu>
Sent: Wednesday, July 14, 2021 10:32:44 PM
To: Candace Keck <Candace.Keck@asu.edu>
Subject: Re: Clinical Make-Up Assignments

Professor Keck,

Okay, so I can still turn my assignments in for credit on those missed days last weekend?

Thank you,
Sara Do

On Wed, Jul 14, 2021 at 10:30 PM Candace Keck <Candace.Keck@asu.edu> wrote:
It was effective/to include last weekend. I have let Leadership know the email information that I shared with you. It does look like all students who missed last week will need to attend an alternative clinical site.
Professor Keck

From: Sara Do <sabedro@asu.edu>
Sent: Wednesday, July 14, 2021 10:23:19 PM
To: Candace Keck <Candace.Keck@asu.edu>
Subject: Re: Clinical Make-Up Assignments


Professor Keck,

I just got your email that says going forward, we cannot do makeup assignments if we miss clinical hours. I am assuming this is going forward from now on and doesn't include past clinicals, such as from your email 3 days ago when you gave me replacement assignments (to total 24-hours of clinical replacement time) that I am almost finished with that were to replace the time I missed on site with the critical care clinical from last weekend?

Thank you,
Sara Do

On Sun, Jul 11, 2021 at 10:37 AM Candace Keck <Candace.Keck@asu.edu> wrote:
Sara,

I hope you are feeling better. I have loaded a Clinical Make-Up assignment in Canvas; Keith RN Cardiac Arrest, A day in the life of an ICU RN-Code Blue and Cardiac Surgery. I wanted to let you know that the State Board of Nursing meet with Leadership on Friday and will not allow Clinical Make-Up assignments going forward. As soon as I have more information I will pass along to the group. I know you have circumstances that may need a bit further discussion.
Professor Keck

Candace Keck, MSN-Ed, RN
Clinical Assistant Professor

Arizona State University
500 North 3rd Street | Phoenix, AZ 85004
cckeck@asu.edu

"The destination will provide its own rewards-The true gift is in the journey"-

EXHIBIT 5

DECLARATION OF BRYAN REDDICK

I, Bryan Reddick, hereby declare as follows:

1. I have personal knowledge of the facts set forth in this Declaration and if called to testify, could and would competently and truthfully testify about these facts.

2. I am an Instructor for the Arizona State University Edson College of Nursing and Health Innovation (“Edson”).

3. In the Summer 2023 semester, I was an instructor for the NUR 516 Psychiatric Mental Health clinical course. I was responsible for teaching eight students that semester.

4. Sara Do was one of my students in NUR 516 during the Summer 2023 semester.

5. As part of NUR 516 during the Summer 2023 semester, the students were required to complete three clinical shifts. My assigned students were scheduled to complete their clinical shifts at Copper Springs East, a psychiatric care facility located in Gilbert, Arizona.

6. The in-person clinical shifts at Copper Springs East were scheduled as 12-hour shifts, from 6:30 a.m. until 6:30 p.m.

7. At the end of each clinical shift, I would meet with the students in a post-conference to discuss their experiences that day and reinforce the learning objectives and knowledge they achieved that day.

8. During the Summer 2023, a representative from Copper Springs East let me know that after around 4:00 p.m., there would be fewer opportunities for the students to

interact with patients and there would not be much for the students to do after that time.

9. I initially planned to meet with the students for our post-conference around 4:00 or 4:30, once there were no further opportunities for the students to interact with patients. We tried to meet in the cafeteria, which was the only area in the facility where we could meet. However, by around 5:00 p.m., patients were arriving in the cafeteria to eat, and families of the patients would sometimes be present. This did not afford us enough time to complete our post-conference, and due to the limited available space within the facility, there was nowhere else I could meet with the students.

10. Due to the space constraints, and the fact that the clinical facility indicated there would not be much for the students to do after 4:00 or 4:30 p.m., the students and I left early on two occasions.

11. In one instance where we left Copper Springs East early, I met with my students, including Sara Do, off-site to complete the post-conference meeting and ensure the competencies of the course were satisfied.

12. During the Summer 2023, students in NUR 516 were also required to complete a “virtual” clinical day, in which they were to prepare and present a mock commercial regarding a psychiatric medication of their choice. The students were required to work in pairs on these mock commercials.

13. I opted to have my students prepare the commercials prior to the virtual clinical day itself.

14. As a result, during the virtual clinical day, the students presented their mock commercials, but did not need to work on the commercials themselves.

15. This meant the virtual clinical day was shorter than scheduled, but the students nevertheless completed all tasks and course learning objectives for the virtual clinical day because they had completed all of the associated work.

16. Some of the students reported that they spent between two and three hours, at least, preparing their commercials prior to the virtual clinical day.

17. The performance evaluation form for NUR 516 included a space for the students to report the number of hours they spent in each clinical experience.

18. At one point during the semester, Sara Do asked me questions about the number of hours she should report for each of her clinical experiences in NUR 516.

19. I tried to accurately provide guidance to Sara Do and the other students on how to report their hours. However, I was unsure about how the hours were to be counted for the course and how students were to complete the hours portion of the performance evaluation.

20. Because I was unsure about how the clinical hours were to be reported, I ultimately instructed the students, including Sara Do, to disregard any advice I had provided them on calculating and reporting their clinical hours and directed them to follow up with their faculty and Course Coordinator for clarification.

21. It was my understanding that Sara Do, and the other students, would receive guidance from someone other than myself on how to calculate and report their hours for NUR 516.

22. It was not my intention, and I did not knowingly instruct the students in my NUR 516 course, to report more hours than they actually spent in their clinical experiences on the performance evaluations.

23. I signed a copy of Sara Do's performance evaluation for NUR 516 as her faculty of record for the course. In signing that document, I did not do so to represent that I was attesting to, or in agreement with, the number of clinical hours reported by Sara Do on that evaluation form.

24. I declare under penalty of perjury that the foregoing is true and correct.

DATE: June 27, 2024.

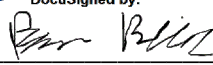
DocuSigned by:

9618328CBEC8424
Bryan Reddick

EXHIBIT 6

DECLARATION OF VICTORIA LEIGH SCHEER

I, Victoria Leigh Scheer, hereby declare as follows:

1. I have personal knowledge of the facts set forth in this Declaration and if called to testify, could and would competently and truthfully testify about these facts.

2. Since January 2023, I have been the Director of Masters Entry to Nursing Practice (“MEPN”) and Accelerated Prelicensure Nursing Programs for Arizona State University Edson College of Nursing and Health Innovation (“Edson”). Prior to that, I served as the Interim Director starting in May 2022.

3. In my role, I oversee the day-to-day operations of the MEPN and Accelerated programs, supporting faculty in their educational roles, and addressing student concerns to ensure they can be successful in their academic program. I am also involved in curriculum development.

4. As part of my role, I am generally aware of the clinical rotations that are scheduled for students in the programs I oversee at local clinical facilities.

5. I understand that, when Sara Do returned to the MEPN program for the Spring 2023 semester, she submitted a list of accommodations requests to the Student Accessibility and Inclusive Learning Services (“SAILS”) office.

6. One of Sara Do’s requested accommodations was to have a “support companion,” an individual who would accompany Sara Do to her classes and clinical shifts. I understand that the SAILS office approved this accommodation request. This was a unique accommodation that required additional coordination with the clinical facilities

where Sara Do completed her clinical rotations to ensure her support companion could accompany her to those facilities.

7. By the Spring 2023 semester, Edson had instituted a “teams model” for the MEPN program, whereby students were assigned to a team upon starting the program. Each team was then assigned to a clinical facility to complete the clinical shifts for each of their courses, which Edson referred to as their “home base.” The students would attend all clinical shifts at their home base facility, unless that facility did not provide opportunities required for a specific course. In that event, students would be assigned to a different facility.

8. When Sara Do returned to the MEPN program, she had to be assigned to a team that matched her progression in the program based on her progress prior to her leave of absence.

9. Sara Do was assigned to the team whose home base was St. Joseph’s Medical Center, which was the only team in her cohort that had an opening for the Spring 2023 semester. St. Joseph’s Hospital was also the closest available location to her home in the East Valley.

10. Other teams were assigned to the Mayo Clinic, Banner Boswell Medical Center, and Phoenix Children’s Hospital. The team assigned to Phoenix Children’s Hospital was focused on pediatric nursing. Students had to apply to be part of this team.

11. During the Spring and Summer 2023 semesters, Sara Do’s team was only scheduled for daytime clinical shifts.

12. Additionally, during the Spring 2023 semester, with the exception of the team based at Phoenix Children's Hospital, the clinical rotations for each of the teams in Sara Do's cohort were scheduled for the same dates and times, just at different clinical facilities. Consequently, if a student were to miss one of their assigned shifts, that student would also miss that shift for all other similar teams and would not have any available options to make up the missed shift.

13. Upon returning to the MEPN program in 2023, Sara Do completed all of her remaining clinical shifts at St. Joseph's Medical Center with the exception of a clinical rotation for a course called NUR 516 – Psychiatric Mental Health.

14. Sara Do's team's home base did not have clinical opportunities appropriate for this course, so Sara Do and her team completed these rotations at Copper Springs East, a psychiatric care facility located in Gilbert.

15. Throughout the course of this lawsuit, I learned that students in Sara Do's team may not have completed the entirety of each of their assigned clinical shifts for NUR 516. I was not aware that MEPN students assigned to Copper Springs East had left some clinical shifts early at the time. Had I been aware, I would have taken steps to ensure that those students made up their missed clinical time.

16. Like all other MEPN students, Sara Do's final clinical course for the MEPN program was for a course called NUR 519, the Transition-to-Practice or "TTP" course. This course differs from other MEPN clinical courses in that the student accompanies a staff nurse at a clinical facility (a preceptor), rather than an Edson staff member during their clinical rotations. An Edson faculty member (the faculty of record) instead

periodically does on-site check-ins with the student but is not required to be onsite for the entirety of each clinical shift.

17. As with most of her other clinical rotations, Sara Do completed her TTP clinicals at St. Joseph's Medical Center. For the TTP course, she was required to complete seven full shifts. These shifts were scheduled as 12-hour shifts from 7:00 a.m. until 7:00 p.m., which was the normal daytime shift for nurses working at St. Joseph's Medical Center. However, because nursing students are expected to participate in both "report on" and "report off" with their nurse preceptor, the actual time a student may spend at the clinical facility could vary and be slightly longer than scheduled.

18. During one of Sara Do's TTP clinical shifts, she emailed me and her faculty of record to inform us that she was feeling unwell but that, after taking a break, she felt better and returned to her clinical assignment. I encouraged her to take her lunch break and to use the shift breaks she had been afforded as an accommodation through the SAILS office. Sara Do later informed me that she was able to complete her shift and was feeling better. A true and correct copy of this email correspondence is attached as **Exhibit A** (ABOR014262)

19. Sara Do's final TTP clinical shift was scheduled for August 5, 2023.

20. The night before Sara Do's final shift, the course coordinator for NUR 519, Professor Candace Keck, relayed a question to me she had received from Sara Do's faculty of record, Professor Jessica Serna.

21. Professor Serna shared with me that Sara Do had texted her to ask whether she could leave her final clinical shift early because she had injured her foot and ankle. In

that text, Sara Do stated that she believed she only had four hours and fifteen minutes remaining to satisfy her clinical hour requirement for NUR 519, which she believed to be 84 hours.

22. The TTP course requires students to complete 84 clinical hours, scheduled over seven full 12-hour clinical shifts, including report at the beginning and end of shift.

23. All MEPN students were expected to complete full shifts for the TTP course, including the report at the beginning and end of the shift. As I noted above, this meant that a shift could last longer than 12 hours, as the nurses on duty might be involved in patient care that takes them past their scheduled end time before they can give report to the next shift of nurses. Thus, the minimum expectation for the TTP course was 84 clinical hours broken over seven full shifts.

24. Sara Do was aware that the TTP clinical requirement was based on seven full shifts because I had previously informed her of this in direct response to a question she asked prior to the start of her TTP course. A true and correct copy of my email correspondence with Sara Do is attached as **Exhibit B** (ABOR013593-ABOR013595). My explanation of the TTP clinical requirement appears at ABOR013593.

25. In that correspondence, I informed Sara Do that she would be required to complete seven full shifts, at approximately 13-14 hours each, including report at the beginning and end of each shift. (*Id.* at ABOR013593.) I specifically referred to the shifts as being “approximately 13-14 hours” each to make clear that the time might extend beyond the scheduled 12-hour shift if report takes longer.

26. For the TTP course in Summer 2023, MEPN students were required to track their clinical time on a log. The TTP hour log used by students, including Sara Do, to track their time at the clinical facility also makes clear that students are to complete clinical shifts in their entirety and expressly instructs students to “not leave a shift early because you have reached your hours for the rotation.” A true and correct copy of Sara Do’s TTP Hour Log is attached as **Exhibit C** (Do_010522).


27. Because the TTP course requirement was that students were to complete seven full shifts, I communicated to Sara Do’s faculty of record, Jessica Serna, that Sara Do could not attend only four hours of her final clinical shift; if she attended her clinical shift, it would need to be for the full duration.

28. I made the decision to require Sara Do to complete a full shift, and this is the approach I would have taken with any student, because the expectation was that every student in NUR 519 would complete the number of full shifts they were assigned to. My decision was not made to punish Sara Do. I was holding her to the same academic standard all MEPN students were expected to meet.

29. I did not communicate to Sara Do’s faculty of record that Sara Do must attend her August 5, 2023 clinical shift and to my knowledge, she did not tell Sara Do she must attend the shift. If Sara Do had determined she could not safely participate in that clinical shift, she could have made arrangements with her nurse preceptor to attend a different clinical shift before the end of the semester.

I declare under penalty of perjury that the foregoing is true and correct.

DATE: 6/25/2024.



Victoria Leigh Scheer, Ph.D.

EXHIBIT A

From: Sara Do <sabedro@asu.edu> on behalf of Sara Do <sabedro@asu.edu>
To: Victoria Scheer
CC: Jessica Serna; bre@agzlaw.com; ab@agzlaw.com
Sent: 7/13/2023 7:59:20 PM
Subject: Re: Break Today
Attachments: Outlook-ltzzdfxr.png; Outlook-ltzzdfxr.png

Good evening. I was able to finish my shift. I'm just pulling out of the parking garage after giving reports to the night nurse. I'm feeling better compared to earlier.

Just wanted to let you know.

Thank you,
Sara Do

On Thu, Jul 13, 2023, 4:51 PM Victoria Scheer <Victoria.Scheer@asu.edu> wrote:
Hello Sara,

Thank you for informing your FOR and me. Please let me know if at any point you are unable to continue with clinical today. I would encourage you to take your lunch, and the usual shift breaks afforded to you.

Dr. Scheer

Victoria Scheer, PhD, RN

she/her/hers

Director of Masters Entry and Accelerated Nursing Programs
Clinical Assistant Professor

602-543-4010 | victoria.scheer@asu.edu

From: Sara Do <sabedro@asu.edu>
Sent: Thursday, July 13, 2023 4:34 PM
To: Victoria Scheer <Victoria.Scheer@asu.edu>; Jessica Serna <jserna4@asu.edu>
Cc: bre@agzlaw.com <bre@agzlaw.com>; ab@agzlaw.com <ab@agzlaw.com>
Subject: Break Today

Good afternoon. My heart went into trigeminy arrhythmia after I ate lunch later this afternoon. I took more antiarrhythmic medication and let my preceptor know. She guided me to an empty room and suggested I lay down for a little bit. I just wanted to let you know. I'm back on the floor now. Still in arrhythmia but not as bad as it was. I was in the room less than an hour and part of that was my lunch break. I also didn't break this morning nor will I break this afternoon.

I felt wonderful this morning and didn't have any arrhythmia until after I ate lunch.

Just wanted to let you know. I arrive at 0620 each shift and stay until at least 1930 every time to complete report to the incoming night nurses.

Thank you,
Sara Do

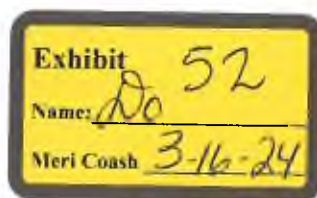


EXHIBIT B

From: Victoria Scheer </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CA837A4E4017431385F44B720ED779EE-VLSCHER_03>
To: Sara Do
CC: Jessica Serna; Candace Keck
Sent: 6/6/2023 3:15:09 PM
Subject: Re: Response to Questions NUR 519

Hello Sara,

Thinking about this a bit more, I want to help ensure you are receiving the full support of your accommodations in clinical and that your preceptor understands these are approved by the University. For that reason, I will reach out directly to your preceptor to communicate your approved accommodations.

Please let me know if you have any questions,
 Dr. Scheer

Victoria Scheer, PhD, RN

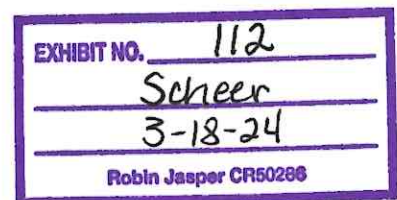
she/her/hers

Director of Masters Entry and Accelerated Nursing Programs
 Clinical Assistant Professor

**ASU Edson College of
 Nursing and Health Innovation**

Arizona State University

602-543-4010 | victoria.scheer@asu.edu



From: Victoria Scheer <Victoria.Scheer@asu.edu>
Sent: Tuesday, June 6, 2023 10:21 AM
To: Sara Do <sabedro@asu.edu>
Cc: Jessica Serna <jserna4@asu.edu>; Candace Keck <Candace.Keck@asu.edu>
Subject: Response to Questions NUR 519

Dear Sara,

Professor Serna forwarded your email. Please see the response to your questions below.

1. Would it be okay if I began my clinicals early?
 - a. You may not begin clinicals early. NUR 519 is a session B course and cannot be started prior. The first day of class is 6/29/23 and your precepted shifts must begin on or after this date.
2. Are we fulfilling clinical requirements based on total hours, or total shifts?
 - a. You are required to complete 7 full shifts, at approximately 13-14 hours each, including report at the beginning and end of each shift.
 - b. Your current accommodations allow: a) one 2-hour break, or b) two 1-hour breaks. Regardless of which option is chosen, the breaks must be scheduled to occur mid-day, mid-shift. You will make up these hours of missed clinical experience in simulation experiences. In addition, you were approved for the following: SAILS is conditionally approving your request to take breaks. However, in order not to alter the essential elements of the clinical placement, you must communicate your need for a break to your supervisor at the time you need the break. Further, in order to not alter the essential elements of the program, it is the expectation that any such break will be of limited duration (not to exceed 5-10 minutes maximum) and be of limited frequency (not to exceed more than one per clinical shift). Taking breaks that are excessive or disruptive to the clinical rotation will alter the essential functions of the clinical placement and are not a reasonable accommodation.
 - c. If you feel your current accommodations are not meeting your needs, you must contact your SAILS accessibility consultant to discuss.
3. Is my preceptor aware of my accommodations through the University as they pertain to clinicals, or do I need to inform her of anything myself?
 - a. You are responsible for informing your preceptor about the above approved accommodations.

Additionally, we will be coordinating with St. Joe's regarding your support companion during TTP; more

information to come.

Thank you,
Dr. Scheer

Victoria Scheer, PhD, RN

she/her/hers

Director of Masters Entry and Accelerated Nursing Programs

Clinical Assistant Professor

**ASU Edson College of
Nursing and Health Innovation**

Arizona State University

602-543-4010 | victoria.scheer@asu.edu

----- Forwarded message -----

From: **Sara Do** <sabedro@asu.edu>

Date: Sun, Jun 4, 2023 at 23:37

Subject: Re: Hello from your Nursing Student - Sara Do at ASU

To: Jessica Serna <jserna4@asu.edu>

Professor Serna,

Thank you for reaching out to me. It's really nice to meet you! As I believe you're aware, I have disability accommodations through the SAILS department at ASU due to some severe health conditions. My cardiac conditions in particular make it difficult to withstand long hours in such cases like full-day clinicals, and I'm concerned about fulfilling 7 shifts that can be in excess of 13 hours each, as they pertain to the exacerbation of my symptoms and conditions.

There are days I feel better than others, but lately my symptoms have become fairly unmanageable despite titration of my cardiac antiarrhythmic medication that once worked pretty well. Making it through each day has become challenging and on especially difficult days, I end up having to go to the emergency department for management of symptoms through IV medication. My electrophysiology cardiologists are running more tests this week to see why the sudden uptick in symptoms (a PET scan with CT overlay, myocardial nuclear perfusion scan, and another MRI), so hopefully we will have a more secure direction in where to go from here. Until we have answers, however, I am left trying to maneuver around some pretty heavy symptoms tied to my diagnoses, while trying to fulfill my obligations for the remaining semester of my program before I graduate in August. Throughout all of this, I have maintained my 4.0 GPA and intend to continue on that trajectory to the best of my abilities, but my heart is struggling to keep up at this point with physical demands.

If it's alright, I wanted to run a couple of questions by you to get your thoughts and have a little bit of a conversation.

1. Would it be okay if I began my clinicals early? I have not requested this as an accommodation since I wanted to talk with you first to see if it is even feasible. If it is possible to start fulfilling clinical hours now as opposed to waiting to start until the end of June, that would give me more days I can go in when I feel better, as opposed to waiting for another 3+ weeks to start, and then hoping for the best on the days available to me through my preceptor's schedule. If I am allowed this option, I feel it would be really helpful in being able to finish all of the required clinical hours for my program.

2. Are we fulfilling clinical requirements based on total hours, or total shifts? I understand it is up to me to independently schedule the shifts I'll be working with my preceptor and obtain University approval, but I'm wondering if I can do shorter shifts and still get all of the required hours by breaking up the hours into more of a part-time schedule (such as 6-8 hour shifts), as opposed to full time (13-hour shifts). If this is an option, I would greatly appreciate knowing it's available to me in an effort to be able to complete all of my required hours needed for graduation, especially during the days and weeks I'm struggling more with symptoms. Of course, when I can push through a whole shift, I will always do so, but if it is at least an option, knowing that greatly helps me in alleviating a lot of the anxiety tied to the required full-time clinical shifts situation. Being

able to reduce any additional anxiety helps to keep my heart in a more steady (and safe) rhythm, as it cuts down on the stress hormone surges that otherwise exacerbate my arrhythmia.

3. Is my preceptor aware of my accommodations through the University as they pertain to clinicals, or do I need to inform her of anything myself?

I really look forward to talking with you and please know that I really appreciate your time and consideration!

Thank you so much!

Respectfully,
Sara Do

On Tue, May 30, 2023 at 11:25 AM Jessica Serna <jserna4@asu.edu> wrote:

Hi Sara,

I just wanted to introduce myself to you directly. My name is Professor Serna and I will be your FOR for this rotation. I wanted to clarify that the dates for clinical are 6/29-8/9. So you have plenty of time to get scheduling information from your preceptor.

I hope this helps! Let me know if you need anything. You can email or text me anytime. My number is 602-292-4303.

Have a great day,
Professor Serna

On Mon, May 29, 2023 at 18:05 Sara Do <sabedro@asu.edu> wrote:

Hi Janice!

My name is Sara Do and I am your nursing student from ASU that you have so graciously agreed to precept these next couple of months!

I am super excited to meet you and work alongside you and hopefully help more than slow down your busy days!

I sent you a text to the number I was given but didn't hear back. Not sure if you don't text or it wasn't the right number, but to confirm, the number I have for you is: 520-921-0501. My phone number is: 281-323-0844.

Have you ever precepted a student previously? This is my first time handling my own schedule for a clinical, so I guess the best first step (beside this introduction) is to ask you if I can please have your schedule so I can see which days you're working that I can fit into my schedule. If you have other ideas, I'm totally open to hearing them!

Today is the first day that my schedule is allowed to be open to doing clinicals with you for this class, so I'm hoping to get as much of a schedule planned as possible. The only day I'm not allowed to work is July 4th according to University and program rules.

Thank you so much! I'm really looking forward to meeting you.

Take care,
Sara Do

EXHIBIT C

Student Name: Sara Do

NUR 519 Nursing Practice: Clinical Immersion Clinical Replacement Hours LOG

Please use this log for the following keeping track of your hours. The hours that will count are 3 hours for assignments and your clinical shift hours. Students clinical shifts in their entirety. Do not leave a shift early because you have reached your hours for the rotation.

Submit to Canvas assignment drop box each week until your hours are completed.

START: 84

Rotation #	Date	Clinical Site	Start Time	End Time	Hours Completed	Cumulative Total	Hours Remaining
1	6-30-2023	St. Joseph Hospital - Phoenix	(arrived @ 0620) 0700	1930	12+ (13:10)	12+	72
2	7-9-2023	St. Joseph Hospital - Phoenix	(arrived @ 0620) 0700	1930	12+ (13:10)	24+	60
3	7-13-2023	St. Joseph Hospital - Phoenix	(arrived @ 0620) 0700	1955	12+ (13:35)	36+	48
4	7-17-2023	St. Joseph Hospital - Phoenix	(arrived @ 0620) 0700	1940	12+ (13:20)	48+	36
5	7-20-2023	St. Joseph Hospital - Phoenix	(arrived @ 0625) 0700	1940	12+ (13:15)	60+	24
6	7-29-2023	St. Joseph Hospital - Phoenix	(arrived @ 0625) 0700	1940	12+ (13:15)	72+	12
7	8-5-2023	St. Joseph Hospital - Phoenix	(arrived @ 0643) 0700	1952	12+	84+	0

Exhibit

Name: Do

Meri Coash

3-16-24

Do_010522

EXHIBIT 7

DECLARATION OF MARGI J. SCHULTZ

I, Margi J. Schultz, hereby declare as follows:

1. I have personal knowledge of the facts set forth in this Declaration and if called to testify, could and would competently and truthfully testify about these facts.

2. I am the Administrator for MaricopaNursing at the Maricopa County Community College District (“MCCCD”).

3. MaricopaNursing is comprised of eight colleges with nursing programs within the MCCCD. In my role as Administrator, I oversee each of these programs and their directors. As a result, I have extensive participation in and knowledge of curriculum design, including correlating didactic and clinical experiences as well as evaluating students and faculty in the classroom and clinical arenas.

4. In my role, I also collaborate with students, MCCCD’s Disability Resource Coordinators, and the Nursing Directors to review and make recommendations for accommodations for students with disabilities in the didactic and clinical settings.

5. Prior to serving as the Administrator of MaricopaNursing, I served as Assistant Director and then Director of the Nursing Division at GateWay Community College. In that role, one of my primary duties was scheduling in-person clinical courses.

6. In addition to my position at MaricopaNursing, I am a member of the Arizona Board of Nursing (“AZBN”) and currently co-chair the AZBN’s Education Committee.

7. I have been retained as an expert by the Arizona Board of Regents to opine on critical important of clinical rotations in nursing education, the difficulty in obtaining those rotations, and other matters related to student nursing clinical rotations.

8. Clinical rotations and in-person clinical experiences are an essential part of pre-licensure nursing education. These real-life encounters permit nursing students to practice fundamental nursing skills, collaborate with members of a patient's healthcare team, learn how to communicate, relate, and interact with patients and family members, handle sensitive patient issues, critically think through non-textbook situations, and see and experience first-hand what nurses do on a day-to-day basis.

9. The hands-on experiences gained while doing in-person clinical rotations prepare the student to be a practice-ready nurse.

10. Although didactic teaching modalities are the basis of the student's learning, and laboratory practice and simulation serves to reinforce skills and concepts, it is the in-person clinical rotations that provide the experiences required to successfully join the nursing workforce.

11. Students participating in clinical rotations are not simply clocking hours, but are there to participate in the shift report, ask questions, increase their clinical judgment skills, see the flow of the shift, and learn from the total experience. Accordingly, it is the norm and expectation within nursing programs that students will remain for the length of each clinical shift.

12. Nursing student clinical shifts are typically scheduled to correspond to the regular shifts of the nurses in the assigned clinical facilities, which are typically 12-hour shifts.

13. Pre-licensure programs in Arizona, whether at the Associates, Bachelors, or Masters level, are all required to follow the rules of the AZBN, as well as applicable

accrediting organizations, when formulating their proposed programs of study. Pre-licensure nursing programs must obtain approval of their curriculum by the AZBN.

14. Because the AZBN's mission is to protect and promote the welfare of the public by ensuring that each person holding a nursing license or certificate is competent to practice safely, the AZBN requires nursing education programs include certain supervised clinical experiences in their curriculum and to clearly identify the number of clinical hours the program deems necessary to meet the student learning outcomes and end-of-program learning outcomes.

15. The AZBN does not mandate a specific number of clinical hours required for any nursing course, but instead requires that the total number of clinical hours is sufficient to meet the specified competencies and learning outcomes stated in the program of study.

16. Once the AZBN approves a program's curriculum, the academic institution cannot modify the number of clinical hours in that curriculum unless it submits a change proposal approved by the institution's curriculum committee for approval by the AZBN. Significant changes may also require approval from an institution's accrediting organization.

17. Nursing education programs are allowed to utilize only a percentage of their proposed clinical time for simulation exercises.

18. In general, clinical rotations are scheduled through the Nursing Clinical Coordination Collaborative, which was created in 2001 as a community resource through the MCCCCD in order to facilitate the complex scheduling for in-person student clinical experiences within Maricopa County.

19. There are currently over 27 academic institutions and approximately 45 clinical experience partners that have joined the Collaborative.

20. The function of the Collaborative is to coordinate an online data management system to manage the scheduling of clinical experiences for the benefit of both nursing education programs and clinical facilities.

21. Three times per year (spring, summer, and fall rotations), the clinical coordinators at academic institutions place their requests for in-person clinical experiences for their programs in a database managed by the Collaborative. This process plays out months in advance of a given semester.

22. During each request cycle, the clinical facilities will establish student capacities for each clinical site and will also communicate “partner” or “preferred” colleges for placement. These preferences may include preferring bachelor’s degree student placements or associate degree students, RN students over practical nursing students, or one college or another, just to provide a few examples.

23. Once the academic institutions have placed their requests, the Collaborative sends the proposed placements to the clinical facilities. In all instances, the clinical facilities have the final authority to accept or decline groups and they also define which days and times are allowed for the shifts during the rotations as well as which floors and experiences are available for the approved students.

24. Academic institutions are generally not allowed to make changes to clinical rotations offered by the clinical facilities.

25. There is an ongoing shortage of clinical placements available in Maricopa County, and the process of obtaining placements that meet the competencies of a nursing program can be tedious. Once clinical placements have been approved, it is problematic and at times impossible to obtain additional clinical placements during the timeframe required by the program scheduling.

26. In fact, in most nursing programs, make-up or alternative in-person clinical placements are not available due to lack of space in clinical facilities and student and faculty scheduling.

27. In addition, any make-up clinical days must meet the clinical objectives of the clinical course in which the absence occurred.

28. The process described in Paragraphs 19-28 above describes how clinical placements are scheduled under the best of circumstances; the COVID-19 pandemic caused additional significant hurdles in securing clinical placements for nursing students.

29. After the COVID-19 pandemic began, many clinical facilities ceased hosting nursing student clinical rotations for a period of time.

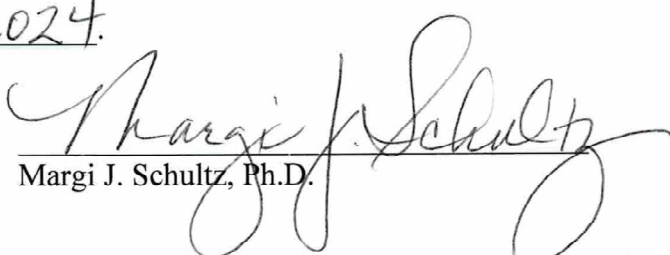
30. In March 2020, Governor Douglas Ducey issued a Declaration of Emergency related to the COVID-19 pandemic. The AZBN followed up with its own declaration that allowed nursing schools across the state to utilize simulation and other non-direct patient contact activities during the State of Emergency while clinical placements were unavailable.

31. Switching rapidly to simulations for clinical competencies was a stop-gap measure during the pandemic, and nursing colleges were challenged to provide a quality education that would produce competent and safe new nurses.

32. Fortunately, in Spring 2021, clinical facilities began to offer clinical rotations, although capacities were limited. Some of these rotations were scheduled through the Collaborative. Because of the constraints of scheduling as the pandemic was abating, some colleges reached out individually to clinical facility partners to schedule additional groups if the facilities had capacity.

I declare under penalty of perjury that the foregoing is true and correct.

DATE: June 25, 2024.


Margi J. Schultz, Ph.D.